

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

FRANK DIPPOLITO,	:	
	:	
Plaintiff,	:	Civ. No. 13-0175 (RBK) (JS)
	:	
v.	:	
	:	<b>MEMORANDUM AND ORDER</b>
UNITED STATES OF AMERICA, et al.,	:	
	:	
Defendants.	:	
	:	

Plaintiff is a former federal prisoner who was previously incarcerated at F.C.I. Fort Dix in Fort Dix, New Jersey. He is proceeding *pro se* with a civil rights complaint pursuant to *Bivens v. Six Unknown Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971).<sup>1</sup> Currently pending before the Court is several defendants' joint motion for judgment on the pleadings with respect to plaintiff's first amended complaint. (*See* Dkt. No. 29.) That motion was filed on December 3, 2014.

On April 17, 2015, Magistrate Judge Schneider granted plaintiff's motion to amend his first amended complaint and the second amended complaint was deemed filed and served as of April 17, 2015. (*See* Dkt. No. 48.) Therefore, as plaintiff's operative complaint is now the second amended complaint, defendants' motion for judgment on the pleadings on the first amended complaint will be denied. It is worth noting that defendants have filed two separate motions to dismiss the second amended complaint (including the defendants who filed a motion for judgment on the pleadings on the first amended complaint) (*see* Dkt. Nos. 50 & 52.) that are also currently pending before the Court. Those motions will be analyzed in due course.

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<sup>1</sup> *Bivens* is the federal counterpart to 42 U.S.C. § 1983. *See Walker v. Zenk*, 323 F. App'x 144, 145 n.1 (3d Cir. 2009) (per curiam) (citing *Egervary v. Young*, 366 F.3d 238, 246 (3d Cir. 2004)).

Accordingly, IT IS this 11th day of August, 2015,

ORDERED that defendants' motion for judgment on the pleadings on the first amended complaint (Dkt. No. 29.) is denied as the first amended complaint is no longer the operative complaint in this action; and it is further

ORDERED that the Clerk shall serve this Order on plaintiff by regular U.S. mail.

s/Robert B. Kugler  
ROBERT B. KUGLER  
United States District Judge